

## **REMARKS**

### 1. Present Status of Patent Application

In response to the final office action dated September 24, 2004, Applicants respectfully request reconsideration based on the foregoing amendments and the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance.

### 2. Examiner Interview

Applicants first wish to express their sincere appreciation for the time that Examiner Duran spent with Applicants' Attorney, Charles Griggers, during a telephone discussion on November 16, 2004 regarding the outstanding Office Action. During that conversation, Examiner Duran seemed to indicate that it would be potentially beneficial for Applicant to make the amendments herein. Thus, Applicant respectfully requests that Examiner Duran carefully consider this response and the amendments.

### 3. Response To Rejections of Claims 1-12 Under 35 U.S.C. § 102(b)

In the Office Action, claims 1-12 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by *Kulakowski* (EP Application No. 0,964,542 A2). For a proper rejection of a claim under 35 U.S.C. Section 102, the cited reference must disclose all elements/features/steps of the claim. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

#### a. Claim 1

As provided in independent claim 1, Applicants claim:

1. A method for sending an advertisement to a user operating a wireless communication device, comprising:

***receiving first information about a current location of the user, wherein the current location is determined by monitoring the location of the wireless communication device as the wireless communication device is moved to at least one different location;***

searching a first database containing a plurality of location-specific advertisements;

***selecting a first one of the plurality of location-specific advertisements that is associated with the current location of the user;*** and

sending the first one of the plurality of location-specific advertisements to the wireless communication device in the form of a first packet-based message over a communication network.

(Emphasis added).

Applicants respectfully submit that independent claim 1 is allowable for at least the reason that *Kulakowski* does not disclose, teach, or suggest at least the features of “receiving first information about a current location of the user, wherein the current location is determined by monitoring the location of the wireless communication device as the wireless communication device is moved to at least one different location,” and/or “selecting a first one of the plurality of location-specific advertisements that is associated with the current location of the user,” as recited in claim 1.

Rather, *Kulakowski* discloses a system whereby: “It is yet another object of the present invention to such a system for delivering printed packets of information directly to high visibility and high traffic areas within a retail environment, including but not limited to, on the shelf, on an endcap (end of aisle) at the checkout, on a freestanding kiosk or display etc. within a designated store.” Page 4, para. 36. As such, *Kulakowski* fails to at least disclose the feature of determining a current location of a wireless communication device as the wireless communication device is being moved to a different location.

For at least these reasons alone, *Kulakowski* does not anticipate claim 1. Therefore, the rejection of claim 1 should be withdrawn.

**b. Claims 2-12**

Because independent claim 1 is allowable over the cited art of record, dependent claims 2-12 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 2-12 contain all the steps and features of independent claim 1. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988). Additionally and notwithstanding the foregoing reasons for allowability of claims 2-12, claims 2-12 recite further features and/or combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the cited art of record.

4. Response To Rejections of Claims 13-20 Under 35 U.S.C. § 102(b)

In the Office Action, claims 13-20 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by *Obradovich* (U.S. Patent No. 6,133,853). For a proper rejection of a claim under 35 U.S.C. Section 102, the cited reference must disclose all elements/features/steps of the claim. See, e.g., *E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

a. Claim 13

As provided in independent claim 13, Applicants claim:

13. A method of sending an advertisement over a communication network to a user operating a wireless communication device, comprising:  
receiving first information about a current location of the user, the current location being routinely monitored;  
receiving second information about the identity of the user;  
searching a database containing a plurality of location-specific advertisements, wherein the plurality of location-specific advertisements are stored in a format selected from the group consisting of at least a digital audio format and a digital text format;  
***selecting one of the plurality of location-specific advertisements based on one or more criteria pre-selected by the user; and***  
***routinely sending the one of the plurality of location-specific advertisements to the wireless communication device over the communication network without transmitting the identity of the user therewith.***

(Emphasis added)

Applicants respectfully submit that independent claim 13 is allowable for at least the reason that *Obradovich* does not disclose, teach, or suggest anywhere in the specification or in the figures at least the steps of “selecting one of the plurality of location-specific advertisements based on one or more criteria pre-selected by the user”; and/or “routinely sending the one of the plurality of location-specific advertisements to the wireless communication device over the communication network without transmitting the identity of the user therewith,” as recited in claim 13. (Emphasis added).

Rather, in *Obradovich*, the “present invention allows users to request detailed information relating to their present location as well as information related to distant locales.” Col. 3, lines 45-47. Therefore, *Obradovich* appears to disclose a system whereby a user can make a request,

with currently-selected criteria, and then in response to the request, some type of information is sent to the user. *See, e.g.*, col 3, lines 6-10 (“The caller requests information . . . and the requested information is automatically downloaded.”). Thus, *Obradovich* fails to disclose, teach, or suggest at least the features of selecting a location-specific advertisement based on pre-selected criteria and routinely sending the location-specific advertisement to a wireless communication device of a user.

For at least each singular and independent reason stated above, the rejection of claim 13 should be withdrawn.

b. Claims 14-20

Because independent claim 13 is allowable over the cited art of record, dependent claims 14-20 (which depend from independent claim 13) are allowable as a matter of law for at least the reason that dependent claims 14-20 contain all the steps and features of independent claim 13. Additionally and notwithstanding the foregoing reasons for allowability of dependent claims 14-20, claims 14-20 recite further features and/or combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the cited art of record. Accordingly, the rejection of claims 14-20 should be withdrawn.

### **CONCLUSION**

For at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-20 are in condition for allowance. For any statements in the Office Action that are not explicitly referenced in this response, Applicants do not intend to admit the validity of such statements by not having addressed them herein. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



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